

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

K. DOE

v.

CRANSTON SCHOOL DEPARTMENT

Decision

Held: Parent failed to prove that it is impractical for colorblind child to walk to school. Request for transportation is denied.

Date: October 18, 2010

Introduction

This is an appeal of the Cranston School Department's denial of a request for bus transportation to and from school.

Background

Student Doe is 13 years old. He is enrolled in the 8th grade at Park View Middle School. Prior to attending Park View, Doe received bus transportation to and from school. In September 2009 he was assigned to Park View and this dispute commenced. Doe lives a little over a mile from the School. Under district policy, transportation is provided only to 7th and 8th grade students who reside 1½ miles or more from school.

In November 2009 Doe's mother filed an appeal with the Commissioner requesting bus transportation for her son. She provided notes from Doe's doctor stating that "walking to school is a safety issue due to color blindness." A January 2010 optometrist's note states that Doe "is significantly color blind. He should have his transportation to school." The school district assigned a mobility expert to Doe's case. After working with Doe, the mobility expert filed a report with the district.¹ Shortly thereafter, the district agreed to provide Doe with transportation while it conducted a Section 504 evaluation of Doe. The transportation was continued through the remainder of the school year.

The Section 504 evaluation did not result in a finding of a qualifying disability. The school district did not schedule bus transportation for Doe for the 2010-11 school year. Doe's mother requested transportation in August. The district responded by arranging for a mobility and orientation evaluation of Doe. Doe's mother did not consent to the evaluation, and filed this appeal.

A hearing was held on September 13, 2010. Doe's mother did not present medical documentation at the hearing. She referred to the previously-submitted doctors' notes in her testimony and argument.

¹ The district did not disclose the mobility expert's report.

Positions of the Parties

Doe's mother contends that the doctors' notes and undisclosed mobility report establish her son's need for transportation to and from school. She argues that the district has used the Section 504 evaluation process and the mobility assessments to harass her son, and that he has become so stressed and guilt-ridden about this matter that he now needs to be assigned to a public school in Warwick.

The School Department contends that a diagnosis of color blindness does not necessarily prevent a student from walking to school, and that current information about Doe's ability to safely walk the route from his home to Park View Middle School is needed. Because consent for a mobility evaluation has been withheld, current information is lacking and there is no basis for an exception to the 8th-grade walking distance in the district's transportation policy.

Discussion

Doe's medical diagnosis of color blindness is not in dispute. The dispute in this case concerns the effect of Doe's color blindness on his ability to walk to and from school. In determining this effect, the specifics of Doe's medical condition and the distance, road and traffic conditions that are involved in Doe's walk to and from school are the relevant considerations. Under Rhode Island General Law 16-21-1, Doe's mother has the burden of proof in establishing that Doe's medical condition makes it impractical for him to walk to school.

The documentation presented by Doe's mother does not contain the necessary detail to establish that it is impractical for her son to walk to and from school. The doctors' notes do not explain how Doe's color blindness prevents him from walking to school safely. The record in this matter does not identify the particular limitations experienced by Doe on account of his color blindness, nor does it describe how those limitations jeopardize his safety while walking on the roads to and from school.

The mobility report produced last school year may contain some of this information, but Doe's mother has not seen the report. Under §16-71-3, parents may obtain access to their children's education records by making a request to the school

principal or designated appropriate authority.² If Doe's mother obtains a copy of the report under §16-71-3 and thereby receives new information about her son's ability to walk to school, we will entertain a motion to reopen the record in this matter. In the meantime, we remind her that Doe remains subject to the compulsory attendance law.³

Conclusion

The evidence in this case fails to establish that it is impractical for student Doe to walk to and from school. The request for transportation is denied at this time.

Paul E. Pontarelli
Hearing Officer

Approved:

Deborah A. Gist
Commissioner of Education

Date: October 18, 2010

² A school district's denial of a request for education records may be appealed to the Commissioner.

³ As with the transportation request, the medical documentation in this matter does not establish a need to assign Doe to an out-of-district school.